

SURREBUTTAL TESTIMONY AND EXHIBIT OF
DANIEL F. SULLIVAN
ON BEHALF OF
THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF
DOCKET NO. 2017-207, 305, 370-E

**IN RE: JOINT APPLICATION AND PETITION OF SOUTH CAROLINA
ELECTRIC & GAS COMPANY AND DOMINION ENERGY,
INCORPORATED FOR REVIEW AND APPROVAL OF A PROPOSED
BUSINESS COMBINATION BETWEEN SCANA CORPORATION AND
DOMINION ENERGY, INCORPORATED, AS MAY BE REQUIRED, AND
FOR A PRUDENCY DETERMINATION REGARDING THE
ABANDONMENT OF THE V.C. SUMMER UNITS 2 & 3 PROJECT
AND ASSOCIATED CUSTOMER BENEFITS AND COST RECOVERY
PLANS**

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.

A. My name is Daniel F. Sullivan. My business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the South Carolina Office of Regulatory Staff (“ORS”) as the Deputy Director of the Audit Department.

Q. DID YOU FILE DIRECT TESTIMONY AND EXHIBITS IN THIS PROCEEDING?

A. Yes. I filed direct testimony and one exhibit with the Public Service Commission of South Carolina (“Commission”) on September 24, 2018.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of my surrebuttal testimony is to address the rebuttal filed by South Carolina Electric & Gas Company (“SCE&G” or “Company”) related to:

- Bid-rigging by vendors providing materials and services to support construction activities at V.C. Summer Units 2 and 3 (“NND Project”);
- Future recovery from ratepayers of the South Carolina Department of Revenue (“SC DOR”) sales and use tax; and,
- The reliance on SCE&G Exhibit ING-1 through ING-2A (“Exhibits”) for an accurate financial representation of SCE&G’s electric operations.

Q. WILL YOU UPDATE YOUR TESTIMONY BASED ON INFORMATION THAT BECOMES AVAILABLE?

A. Yes. ORS fully reserves the right to revise its recommendations via supplemental testimony should new information become available not previously provided by the Company or from pending state and federal investigations and lawsuits.

Q. SCE&G WITNESS KOCHEMS STATES THAT ORS’S ADJUSTMENT TO NEW NUCLEAR DEVELOPMENT (“NND”) CONSTRUCTION WORK IN PROGRESS (“CWIP”) WAS RESOLVED AS PART OF THE 2015 AMENDMENT TO THE ENGINEERING, PROCUREMENT AND CONSTRUCTION (“EPC”) CONTRACT. DID ORS VERIFY THE ADJUSTMENT WAS INCLUDED IN THE 2015 AMENDMENT?

A. No. ORS was unable to verify Mr. Kochems’ claim that the \$42,873 in fraudulent activity associated with a bid-rigging scheme was resolved as part of the 2015 Amendment to the EPC Contract. To ensure that ratepayers are held harmless from known costs related to fraudulent procurement activities, ORS removed \$42,873 from CWIP.

Q. IS THE ASSESSMENT OF SALES AND USE TAX BY SC DOR INCLUDED IN THE NND CWIP BALANCES PROPOSED BY THE COMPANY OR ORS?

1 A. No. The assessment for sales and use tax estimated at \$421,009,869 by SC DOR
2 associated with the abandonment of the NND Project is not known and measurable.
3 Therefore, neither the Company nor ORS has included the amount in its calculation of the
4 NND CWIP balance. The Company appealed the SC DOR assessment. Surrebuttal Audit
5 Exhibit DFS-1 contains ORS's request for information and the Company's corresponding
6 response related to the SC DOR's sales and use tax assessment.

7 **Q. HOW DOES ORS RECOMMEND THE ASSESSMENT FOR SALES AND USE**
8 **TAX BE TREATED FOR COST RECOVERY PURPOSES WHEN IT IS**
9 **FINALIZED?**

10 A. The sales and use tax assessed by SC DOR is a direct result of abandonment of the
11 NND Project. As identified by Company witness Kochems in his direct testimony, SCE&G
12 expensed approximately \$19.2 million in costs associated with the abandonment of the
13 NND Project through December 31, 2017, rather than include them in the capital costs
14 associated with the NND Project. Based on SCE&G's direct testimony, expenses
15 associated with abandonment of the NND Project will not be considered in setting
16 SCE&G's rates now or in the future and customers will not be required to pay them.¹ The
17 assessment of sales and use tax due to the abandonment of the NND Project, if ever paid
18 by the Company, should be treated as an abandonment cost and should not be recovered
19 from ratepayers consistent with SCE&G's direct testimony. The ORS Optimal Plan does
20 not include any NND costs incurred after March 12, 2015, as discussed in detail by other
21 ORS witnesses.

¹ Direct Testimony of Kevin R. Kochems, page 50, lines 3-5.

Q. DID ORS DETERMINE THE METHODOLOGY USED BY SCE&G WITNESS IRIS GRIFFIN TO CALCULATE HER EXHIBITS WAS INACCURATE?

A. No. In SCE&G witness Griffin's rebuttal testimony, she misinterprets my direct testimony and concludes that I am critical of the methodology used by SCE&G in preparing the Exhibits. That is not my position, nor do I believe the methodology used by SCE&G to present the Exhibits is inaccurate. My direct testimony simply points out that Ms. Griffin and I are in agreement that the results reflected in the Exhibits overstate the Company's financial results for electric operations because the Exhibits do not consider any financial impairments.

 The financial condition of SCE&G electric operations has no bearing on the determination of NND Project cost recovery. The Company's application is limited to a request to review and approve a proposed business combination and determine prudence regarding the abandonment of the NND Project. The Commission has not been asked to review the Company's financial condition related to its electric operations. My direct testimony highlights that it would be inaccurate to solely rely on the Exhibits as presented by SCE&G in its direct testimony to represent the current financial situation of SCE&G's electric operations.

Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes, it does.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
OFFICE OF REGULATORY STAFF'S CONTINUING
AUDIT INFORMATION REQUEST
DOCKET NO. 2017-207-E (8th Continuing AIR)
DOCKET NO. 2017-305-E (7th Continuing AIR)
DOCKET NO. 2017-370-E (7th Continuing AIR)**

REQUEST 7-24:

Describe the South Carolina Department of Revenue's claim against SCE&G for sales tax on the NND construction costs. Describe the current status. Provide a copy and the amount of the assessment, including all schedules that were developed by the SCDOR in support of the assessment.

RESPONSE 7-24:

On January 26, 2018, the South Carolina Department of Revenue ("SCDOR") notified SCE&G that it was initiating an audit of the Company's sales and use tax returns for the periods September 1, 2008 through December 31, 2017. On February 8, 2018, at an introductory meeting regarding the audit, the SCDOR informed the Company that it believes that the exemption for sales and use tax for purchases related to the Nuclear Project no longer applies because Unit 2 and Unit 3 will not be placed into service and no electricity will be manufactured for sale.

On June 1, 2018, SCE&G received a notice of proposed assessment and related information. A copy of the proposed assessment, including the documents accompanying the proposed assessment are attached. SCDOR has not provided any schedules or other information supporting its proposed assessment. Accordingly, SCE&G is not in possession of information responsive to this portion of ORS's request.

SCE&G has ninety days from the date of the proposed assessment to appeal the proposed assessment by sending a written protest. The Company intends to appeal the proposed assessment and vigorously contest the SCDOR's position.

RESPONSIBLE PERSON: Virginia Smith

Attachment to Response 1-24

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**Explanation of Audit Assessments and
Adjustments**

Page 1 of 5

AS-21
(Rev. 08/24/16)
6391

File Number: 020800475
Letter ID: L0006859830
Date Issued: May 31, 2018

SCE&G COMPANY, PRINCIPAL SUBSIDIARY OF SCANA CORPORATION
VC SUMMER NUCLEAR PLANT
CORPORATE TAX DEPARTMENT (050)
COLUMBIA SC 29218-0001

On August 27, 2008, a Special 19 (Direct Pay) Agreement was entered into by South Carolina Electric & Gas Company and the South Carolina Department of Revenue whereby purchases could be made Sales and Use Tax free using the exemption certificate. This agreement allowed SCE&G to extend the exemption certificate to contractors and sub-contractors to purchase material and equipment that would be tax exempt under S.C. Code Section 12-36-2120 (17) and other sections that relate to constructing a manufacturing facility, in particular the construction of the AP1000 Nuclear Units (units 2 & 3) to be located in Fairfield County, SC. The Exemption Certificate (ST-9) was issued with an effective date of September 4, 2008.

The Department received an email from Keith R. Whitman on July 31, 2017 announcing that SCANA was abandoning construction of the two new nuclear units at the V.C. Summer Nuclear Plant project in Jenkinsville, SC.

The Department sent a letter to SCANA on October 17, 2017 stating it was withdrawing the Special 19 Exemption Certificate and requested that all copies of the exemption certificate be returned. Copies of the exemption certificates were return on October 25, 2017.

On January 26, 2018, the Department mailed an Initial Audit Appointment letter to SCANA Corporation to the attention of Virginia Smith. The letter scheduled the initial audit meeting for February 8, 2018.

On February 8, 2018, an initial audit meeting was held with SCANA personnel and representatives as well as Department Auditors to further clarify what documents the Department was requesting to begin the audit.

On February 20, 2018 an audit letter was sent by the Department to SCANA with a list of requested documents for our examination which included but was not limited to copies of pay applications/contracts for all work performed onsite, copies of all invoice backup related to pay applications/contracts, and records related to the construction cost information filed with the Public Service Commission. A request was received from SCANA to extend the time to provide the documents, and the extension was granted until April 6, 2018.

On April 6, 2018, a letter was received from the Richardson Plowden Law Firm and a flash drive with some of the requested documents for review. Since all of the requested information was not provided, a Proposed Notice of Assessment was generated. Total cost of the project was determined to be \$10.4 billion based on information obtained by the Department. 40% of the project cost was allocated to labor cost and 60% of the project cost was allocated to capital cost. A total tax measure of \$6,240,000,000.00 was used to calculate use tax due on construction material costs. Credit was given for use tax paid throughout the life of the project.

LOGAN MITCHELL, Field Audit
Email: Logan.Mitchell@dor.sc.gov, Phone: +1 (803) 898-5908, Fax: +1 (803) 896-0020
300A Outlet Pointe Blvd, Columbia, South Carolina 29210

Attachment to Response 7-24

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Proposed Assessment

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AS-6
(Rev. 04/12/18)
6376

File Number: 020800475
Letter ID: L0006763530
Date Issued: May 31, 2018

SCE&G COMPANY, PRINCIPAL SUBSIDIARY OF SCANA CORPORATION
VC SUMMER NUCLEAR PLANT
CORPORATE TAX DEPARTMENT (050)
COLUMBIA SC 29218-0001

Taxpayer:

An audit of your South Carolina Sales and Use Tax return(s) from 9/01/2008 thru 12/31/2017 has been conducted. Enclosed you will find an explanation of our **Proposed Assessment**. Below is a summary of our findings if paid by 06/28/2018:

Tax:	\$410,092,995.09
Penalty:	\$0.00
Interest:	\$10,916,874.26
Prepayments:	(\$0.00)
Total:	\$421,009,869.35

Failure to respond to this notice by 08/27/2018 will result in the accrual of additional penalties and/or interest, and further collection action will be taken. Please refer to the reverse side for instructions on how to proceed. Should you have any questions, please do not hesitate to contact this office.

LOGAN MITCHELL, Field Audit

Email: Logan.Mitchell@dor.sc.gov, Phone: +1 (803) 898-5908, Fax: +1 (803) 896-0020
300A Outlet Pointe Blvd, Columbia, South Carolina 29210

This demand for payment is not applicable if you are currently in bankruptcy proceedings under Title 11 of the U.S. Code. Any monies due will be sought in accordance with the provisions of Title 11.

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SC DEPARTMENT OF REVENUE
Audit Payment

C-370
(Rev. 01/18/18)
6370

Pay online for free at MyDORWAY.dor.sc.gov.

Vouchers and payments may also be mailed to:

South Carolina Department of Revenue
P.O. Box 2535
Columbia, SC 29202-2535

SOUTH CAROLINA ELECTRIC & GAS
COMPANY

Media 241364796
File Number 020800475

Amount Due \$421,009,869.35

Balance Remitted

63701023 01 000241364796 00 00 00000000 42100986935

9

Attachment to Response 7-24

Page 3 of 5

If you agree with the changes detailed on this notice and any enclosed explanations, the balance should be remitted to this office within 30 days from the issue date of this letter to avoid additional penalties and interest, if applicable. To pay by check, please mail your payment **and the voucher** from the front page as addressed on the voucher to ensure proper processing.

If you agree with the Department's determination, but are unable to make full payment at this time, please complete the enclosed Waiver of Restriction on Assessment (SC870) and return it to this office as soon as possible. Upon receipt of this document, a final assessment will be issued.

You may agree with portions of the proposed assessment and disagree with others. The portion of the assessment with which you agree may be paid to avoid additional interest and penalty, and the remainder can be appealed.

If you disagree with part or all of the proposed assessment, you may make an appeal by sending a written protest within 90 days from the date of this proposed assessment.

Protest forms (C-245) are available online at www.dor.sc.gov, by calling (803) 898-5320 or you may visit any South Carolina Department of Revenue office. You may choose to send a letter rather than using the Form C-245. The letter must contain the following information:

1. Taxpayer's name (individual, corporation, etc.)
2. Taxpayer's Identification number (Social Security, Federal Employer Identification, License, etc.)
3. Period for which the tax is proposed
4. Type of tax in dispute (individual income, sales, etc.)
5. All of the reasons you disagree with the proposed assessment

If you have any questions, please call the telephone number shown on the front of this proposed assessment.

TAXPAYER'S BILL OF RIGHTS

- You have the right to apply for assistance from the Taxpayer Rights' Advocate within the Department of Revenue. The advocate or his designee is responsible for facilitating resolution of taxpayer complaints and problems.
- You have the right to request and receive forms, instructions and other written materials in plain, easy-to-understand language.
- You have the right to prompt, courteous service from us in all your dealings with the Department of Revenue.
- You have the right to request and receive written information guides, which explain in simple and nontechnical language, appeal procedures and your remedies as a taxpayer.
- You have the right to receive notices which contain descriptions of the basis for and identification of amounts of any tax, interest and penalties due.

Attachment to Response 7-24

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**Waiver of Restrictions on
Assessment/Collection**

SC-870
(Rev. 12/06/04)
3309

File Number: 020800475
Letter ID: L0006766578
Date Issued: May 31, 2018

SCE&G COMPANY, PRINCIPAL SUBSIDIARY OF SCANA CORPORATION
VC SUMMER NUCLEAR PLANT
CORPORATE TAX DEPARTMENT (050)
COLUMBIA SC 29218-0001

Increase (Decrease) in Tax, Interest and Penalties:

Type of Tax: Sales and Use Tax

Periods Covered: 9/01/2008 thru 12/31/2017

Tax: \$410,092,995.09

Penalty: \$0.00

Interest \$10,916,874.26

Total: \$421,009,869.35

This information was prepared by Logan Mitchell. Telephone Number: 1+(803)898-5908

PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE

Consent to Assessment and Collection of Additional Tax or Acceptance of Overassessment:

I have read and understand the instructions on the reverse side. I consent to the assessment and collection of any additional tax and penalties or accept any decrease in tax and penalties shown above, plus any interest provided by law. I understand that by signing this waiver, I consent to the above determination amount(s) and must pay the additional amounts prior to contesting this matter any further.

Taxpayer's Signature: _____ Date: _____

Spouse's Signature: _____ Date: _____

Corporation Name (if applicable): _____

Signature: _____ Title: _____ Date: _____

GENERAL INFORMATION AND INSTRUCTIONS
SC870 (Rev. 12/6/04)

IMPORTANT: By signing this form, the taxpayer (1) agrees to pay the tax, interest, and penalties stated to be due; and (2) gives up the right to appeal this matter further. Interest and applicable penalties will continue to accrue until the balance due the Department is paid in full. Signing this form does not affect your right to file a claim for refund and does not prevent the Department from assessing additional tax found to be due at a later date.
NOTE: If you wish to give up your right to file a claim for refund and prevent the Department from assessing additional amounts at a later date, a SC870AD should be executed in lieu of this SC870.

CLAIM FOR

Executing this document does not prevent you from seeking a refund of State taxes paid. The refund claim must be filed within three years from the date the return was filed, or two years from the date of payment of the tax, whichever is later. See the SC Information Guide about the claim for refund procedure for additional information.

EXECUTING THIS

If this waiver relates to a joint individual income tax return, both husband and wife must sign the waiver.

If the SC870 is executed on behalf of a corporation, the waiver must include the corporation's name as well as the signature and title of the corporate officer executing this document.

If this waiver is associated with an income tax examination of a partnership or "S" corporation, each partner or shareholder must execute a separate form.

If this waiver is signed by someone acting in a fiduciary capacity (e.g. a personal administrator or trustee), Internal Revenue Service Form 56, Notice Concerning Fiduciary Relationship, must accompany this form unless previously provided.

An attorney, CPA or other agent may execute this form on behalf of a client provided such authority is granted in a power of attorney. The power of attorney must accompany this form unless previously provided.

GENERAL

We have an agreement with the Internal Revenue Service which provides for the exchange of tax information. If this change affects returns filed with the Internal Revenue Service, amended federal return(s) may need to be filed.

If you have any questions about this waiver, please contact the preparer.